

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(1) CRM No.M-25655 of 2014(O&M)

Karamjit Brar and others

...Petitioners

VERSUS

Alamjit Singh Mann

...Respondent

(2) CRM No.M-9554 of 2015(O&M)

Jasleen Randhawa

...Petitioner

VERSUS

Alamjit Singh Mann

...Respondent

Date of Decision:- May 13, 2016

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.P.S.Ahluwalia, Advocate
for the petitioners.

Dr.Anmol Rattan Sidhu, Senior Advocate with
Mr.S.S.Brar, Advocate
for the respondent.

INDERJIT SINGH, J.

Both the cases are taken up together as the point for
determination in both the cases is the same.

CRM No.M-25655 of 2014 has been filed by petitioners
Karamjit Brar, Tejinder Singh Randhawa and Jasleen Randhawa under
Section 482 Cr.P.C. against the respondent for quashing of criminal
complaint No.34746 of 2010 dated 13.12.2010, summoning order dated

09.03.2011 passed by learned Judicial Magistrate Ist Class, Chandigarh and judgment dated 14.05.2013 passed by learned Addl. Sessions Judge, Chandigarh.

CRM No.M-9554 of 2015 has been filed by petitioner Jasleen Randhawa under Section 482 Cr.P.C. against respondent Alamjit Singh Mann for quashing of criminal complaint No.32953 of 2010 dated 13.12.2010, summoning order dated 09.03.2011 passed by learned Judicial Magistrate Ist Class, Chandigarh and judgment dated 14.05.2013 passed by learned Addl. Sessions Judge, Chandigarh.

Notice of motion was issued and learned counsel for the respondent appeared and contested the petition.

I have heard learned counsel for the parties and have gone through the record.

It is mainly stated in both the petitions that petitioners have been falsely implicated in the criminal complaints instituted at the instance of complainant-respondent Alamjit Singh Mann for offences under Section 499/500 IPC.

It is stated that bare perusal of the complaint as well as the summoning order would reveal that it has been alleged by the complainant-respondent that the petitioners (in CRM No.M-25655 of 2014) had instituted CRM No.M-906 of 2009 and co-accused of petitioner through present petitioner (in CRM No.M-9554 of 2015) had instituted CRM No.M-32563 of 2009 before this Court praying for quashing of another complaint instituted by the respondent-complainant for offences under Sections 420, 120-B IPC. The grievance of the respondent-complainant is that in the above-said quashing petitions, false imputations have been made against his character,

which have harmed his reputation and defamed him in the eyes of his family members and public.

As the accused could not be summoned despite grant of three effective opportunities for want of copy and even dasti summons, which were ordered in addition to ordinary process and the service was not got effected nor copies of the complaints were filed, the complaints were dismissed by learned JMIC, Chandigarh, after passing of summoning order.

The respondent-complainant Alamjit Singh Mann filed the revision before learned Addl. Sessions Judge, Chandigarh, who without giving notice to the present petitioners, set aside the order passed by learned JMIC, Chandigarh. The judgments dated 14.05.2013 passed by learned Addl. Sessions Judge, Chandigarh, without giving notice to the respondents in the revision and present petitioners in these petitions, are illegal and not as per law. No adverse order can be passed without giving notice to the respondent in a revision petition, as per law. Therefore, the judgments passed by learned Addl. Sessions Judge, Chandigarh are illegal.

On merits even, I find that as per allegations of the complainant in the complaint that the present petitioners have levelled false accusations qua his character etc. in CRM Nos.M-906 and M-32563 of 2009 before this Court and that petitions are still pending. There is no finding by the Court that those are false allegations etc. The parallel proceedings cannot be initiated qua the averments given in the proceedings, which is still pending before this Court.

Learned counsel for the petitioners cited judgment passed by the Hon'ble Supreme Court in *Manharibhai Muljibhai Kakadia and another vs.*

Shaileshbhai Mohanbhai Patel and others, 2012(4) RCR (Criminal) 689,

in which it is held that revision against the dismissal of complaint before the Sessions Court or High Court; a person accused of in the complaint has a right to be heard in revision petition. On the same point, learned counsel for the petitioners cited judgment passed by the Hon'ble Supreme Court in ***Bal Manohar Jalan vs. Sunil Paswan and another, 2014 CrLJ 3881.***

Learned counsel for the petitioners also relied upon the judgment passed by this Court in ***Sunil Mahajan and another vs. State of Punjab and another, 2012(2) RCR (Criminal) 219***, in which petitioner filed written statement in a civil suit filed by the complainant pleading that plaintiff and his brother are in habit of grabbing the land and property of others and the complainant alleged that this averment is false, defamatory and was made by the accused in their statements to cause injury to his reputation in the eyes of officials of the department, Courts and general public and instituted complaint against the petitioner. It is held in that case civil suit in question has already been dismissed and decided in favour of the petitioners and complaint and summoning order qua the petitioner were quashed. It is further held that it is for the civil court to decide on the basis of the eviction whether the averments made in the written statement are true or not and simultaneous criminal proceedings cannot be allowed to be proceeded with. On the same point, reliance has been placed on the judgment passed by this Court in ***Jogesh Kumar Khaitan and others vs. Balbir Singh Cheema, 2000(2) RCR (Criminal) 224***, in which also, this Court has held that written statement filed by party stating that plaintiff had suppressed material facts and removed papers of employer; contentions raised in written statement not prima facie false. It is for the Court to decide whether contentions were true or false. No case of defamation is made out

and complaint under Sections 499, 500 quashed.

I have gone through all the above cited judgments and the same fully apply in the present case.

On the other hand, learned counsel for the respondent has not cited any judgment in contradiction to the above-said judgments. Nothing has been shown that revision can be decided without giving notice to the respondent. In the revision, no adverse order can be passed without giving notice to respondents. No judgment has been shown whether complaint under Sections 499 and 500 IPC can be filed qua the averments taken in the judicial proceedings, which are still pending before the Court.

In view of the above discussion, I find merit in both the petitions and the same are allowed.

Complaint No.34746 of 2010 dated 13.12.2010 in CRM No.M-25655 of 2014 and complaint No.32953 of 2010 in CRM No.M-9554 of 2015 and all subsequent proceedings arising therefrom, are hereby quashed.

May 13, 2016
Vgulati

(INDERJIT SINGH)
JUDGE